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NATIONAL PARK SERVICE

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HOMESTEAD, FLORIDA 33030

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Big Cypress National Preserve Wilderness Study

Enclosed is a copy of the preliminary Wilderness Study for Big Cypress National Preserve together with a copy of the Notice of Public Hearings as published in the Federal Register.

We would appreciate receiving your comments on this study. They may be presented at the public hearings or as written comments sent directly to Everglades National Park. The period for receiving written comments will end November 26, 1979.

John M. Good
John M. Good
Superintendent

Enclosures

UNITED STATES
DEPARTMENT OF THE INTERIOR
National Park Service

Notice of Public Hearings Regarding Wilderness Study

BIG CYPRESS NATIONAL PRESERVE, FLORIDA

Notice is hereby given in accordance with Section 7 of the Act of October 11, 1974 (88 Stat. 1261, 16 U.S.C. 6981), and in accordance with Departmental procedures as identified in 43 CFR 19.5 that public hearings will be held at the following locations and times for the purpose of receiving comments and suggestions as to the suitability of lands within Big Cypress National Preserve for designation as wilderness.

October 24, 1979, at 7:00 p.m. Homestead Jr. High School
650 Northwest 2nd Avenue
Homestead, Florida

October 25, 1979, at 7:00 p.m. East Naples Middle School
4100 Estey Avenue
Naples, Florida

A packet containing a preliminary wilderness study report may be obtained from the Superintendent, Everglades National Park, Post Office Box 279, Homestead, Florida 33030, Telephone (305) 247-6211, or from the Regional Director, Southeast Region, National Park Service, Richard B. Russell Building, 75 Spring Street, S.W., Atlanta, Georgia 30303, telephone (404) 221-5465.

The preliminary wilderness study report and a map of the areas studies for their suitability or nonsuitability as wilderness is available for review at the locations noted above and in Room 1210 of the Department of the Interior Building at 18th and C Streets, N.W., Washington, D.D. 20240.

Interested individuals, representatives of organizations and public officials are invited to express their views in person at the aforementioned public hearings, provided they notify the Hearing Officer by October 22, 1979, of their desire to appear. Those not wishing to appear in person may submit written statements on the wilderness study report to the Hearing Officer for inclusion in the official record which will be held open for written statements until November 26, 1979. The Hearing Officer may be reached by writing or telephoning the Superintendent, Everglades National Park.

Time limitations may make it necessary to limit the length of oral presentations and to restrict to one person the presentation made in behalf of an organization. An oral statement may, however, be supplemented by a more complete written statement that may be submitted to the Hearing Officer at the time of presentation of the oral statement. Written statements presented in person at the hearings will be considered for inclusion in the transcribed hearing record. However, all materials presented at the hearing shall be subject to a determination by the Hearing Officer that they are appropriate for inclusion in the hearing record. To the extent that time is available after presentation of oral statements by those who have given the required advance notice, the Hearing Officer will give others present an opportunity to be heard.

After an explanation of the preliminary wilderness study report by a representative of the National Park Service, the Hearing Officer insofar as possible, will adhere to the following order in calling for the presentation of oral statements:

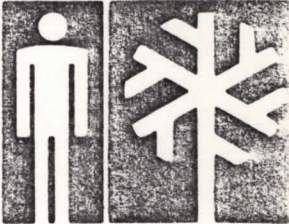
1. Governor of the State or his representative.
2. Members of Congress.
3. Members of the State Legislature.
4. Official representatives of the counties in which the national preserve is located.
5. Officials of other Federal agencies or public bodies.
6. Organizations in alphabetical order.
7. Individuals in alphabetical order.
8. Others not giving advance notice, to the extent there is remaining time.

Date: September 21, 1979

Director, National Park Service

wilderness study
august 1979

BIG CYPRESS



NATIONAL PRESERVE - FLORIDA

This report was prepared pursuant to Public Law 88-577 of September 3, 1964 (the Wilderness Act). Publication of the findings and recommendations herein should not be construed as representing either the approval or disapproval of the Secretary of the Interior.

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FINDINGS

(Preliminary - Subject to Change)

NONE OF THE LANDS WITHIN BIG CYPRESS NATIONAL PRESERVE WERE FOUND TO BE SUITABLE FOR WILDERNESS AT THE PRESENT TIME. THE RIGHT OF PRIVATE PARTIES TO CONTINUE OIL AND GAS EXPLORATION AND EXTRACTION IS LEGISLATIVELY PERMITTED AS LONG AS IT DOES NOT JEOPARDIZE THE NATURAL VALUES THAT ARE TO BE PRESERVED IN THE AREA. PRIVATE INHOLDINGS AND CONTINUED USE AND OCCUPANCY OF PRESERVE LANDS BY SEMINOLE AND MICCOSUKEE INDIANS ARE ALSO LEGISLATIVELY AUTHORIZED TO CONTINUE. USE OF OFF-ROAD VEHICLES IS PERMITTED IN SUBSTANTIAL PORTIONS OF THE PRESERVE.

BECAUSE OF THE QUALITY OF THE RESOURCE AND THE LEGISLATIVE MANDATE TO PROTECT IT, A REASSESSMENT OF WILDERNESS SUITABILITY WILL BE UNDERTAKEN IN ABOUT FIVE YEARS.

INTRODUCTION

Big Cypress National Preserve was established in 1974 by Public Law 93-440 to "assure the preservation, conservation, and protection of the natural, scenic, hydrologic, floral and faunal, and recreational values of the Big Cypress Watershed in the State of Florida and to provide for the enhancement and public enjoyment thereof" (appendix A).

The establishment act directed the Secretary of the Interior to review the area's suitability for wilderness designation within five years of the passage of the law, and this study evaluates the preserve's suitability for wilderness, according to the provisions of the 1964 Wilderness Act (Public Law 88-577, appendix B). In section 2(c) of the Wilderness Act, a wilderness area is defined as follows:

A wilderness, in contrast with those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain. An area of wilderness is further defined to mean in this Act an area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions and which (1) generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable; (2) has outstanding opportunities for solitude or a primitive and unconfined type of recreation; (3) has at least five thousand acres of land or is of sufficient size as to make practicable its preservation and use in an unimpaired condition; and (4) may also contain ecological, geological, or other features of scientific, educational, scenic, or historical value.

T H E P R E S E R V E A N D I T S E N V I R O N S

The Big Cypress watershed is in southwest Florida in Collier, Hendry, northern Monroe, and western Dade counties. The 570,000-acre Big Cypress National Preserve encompasses about three-eighths of this watershed and extends from the northern boundary of Everglades National Park northward to a point seven miles north of Florida Highway 84, Alligator Alley (see the Region map). Good east-west access through the preserve is provided by Florida 84 and U.S. 41 (the Tamiami Trail). North-south access along the western boundary of the preserve is via Florida 29.

The existing preserve headquarters is in Naples, and there is a field office at the Oasis ranger station, approximately 55 miles east of Naples along U.S. 41.

NATURAL RESOURCES

Water is one of the most important components of the Big Cypress ecosystem. Abundant rainfall between May and October--about 57 inches annually--and flat topography, sloping seaward about 2 inches per mile, allow water to collect and cover up to 90 percent of the area, effectively extending the wet season for several months beyond the actual rainfall period. However, water in ponds and sloughs covers only about 10 percent of the land during the dry season.

Water for municipal use in Naples is supplied by wells that draw from a shallow aquifer about 130 feet thick. This aquifer thins eastward, becoming almost nonexistent at the Dade County line. Continued rapid population expansion along the Gulf Coast is expected to place increasing importance on the Big Cypress watershed as a recharge area.

The Big Cypress watershed contains heterogeneous plant communities and their associated fauna, both of which relate to the water level and its seasonal changes. Species diversity within the various plant communities is similar to that found in Everglades National Park. The preserve is called Big Cypress not because of the size of its trees, but because of its expanse. Most of the preserve is covered by an open forest of small cypress trees and an undergrowth of herbaceous plants like sawgrass and black rush. The plant communities throughout the preserve are similar, and no one area supports unique vegetation.

The distribution of plant communities depends on topography. The preserve is speckled by low limestone ridges and outcrops, dotted with ponds or wet prairies, and cut by shallow sloughs 1 to 2 feet

deep. As in the Everglades, a difference of a few inches in elevation leads to the establishment of totally different communities. Pines grow on the higher limestone ridges, and tropical hardwood hammocks grow on rocky outcrops in the middle of marshes and prairies.

The ponds of the wet prairies give rise to willow and cypress heads. The deepest water areas are the topographic depressions that form wide, shallow drainages called sloughs. These sloughs have water on a more permanent basis than other areas in the preserve, and therefore they contain some of the largest cypress trees and the most diverse and abundant aquatic life. Along the coastal fringe of the preserve, the wet prairies grade gradually into coastal marshes and mangrove forests. (A vegetative map of the preserve was prepared by B.F. McPherson in 1973 for the U.S. Department of the Interior, Geological Survey.)

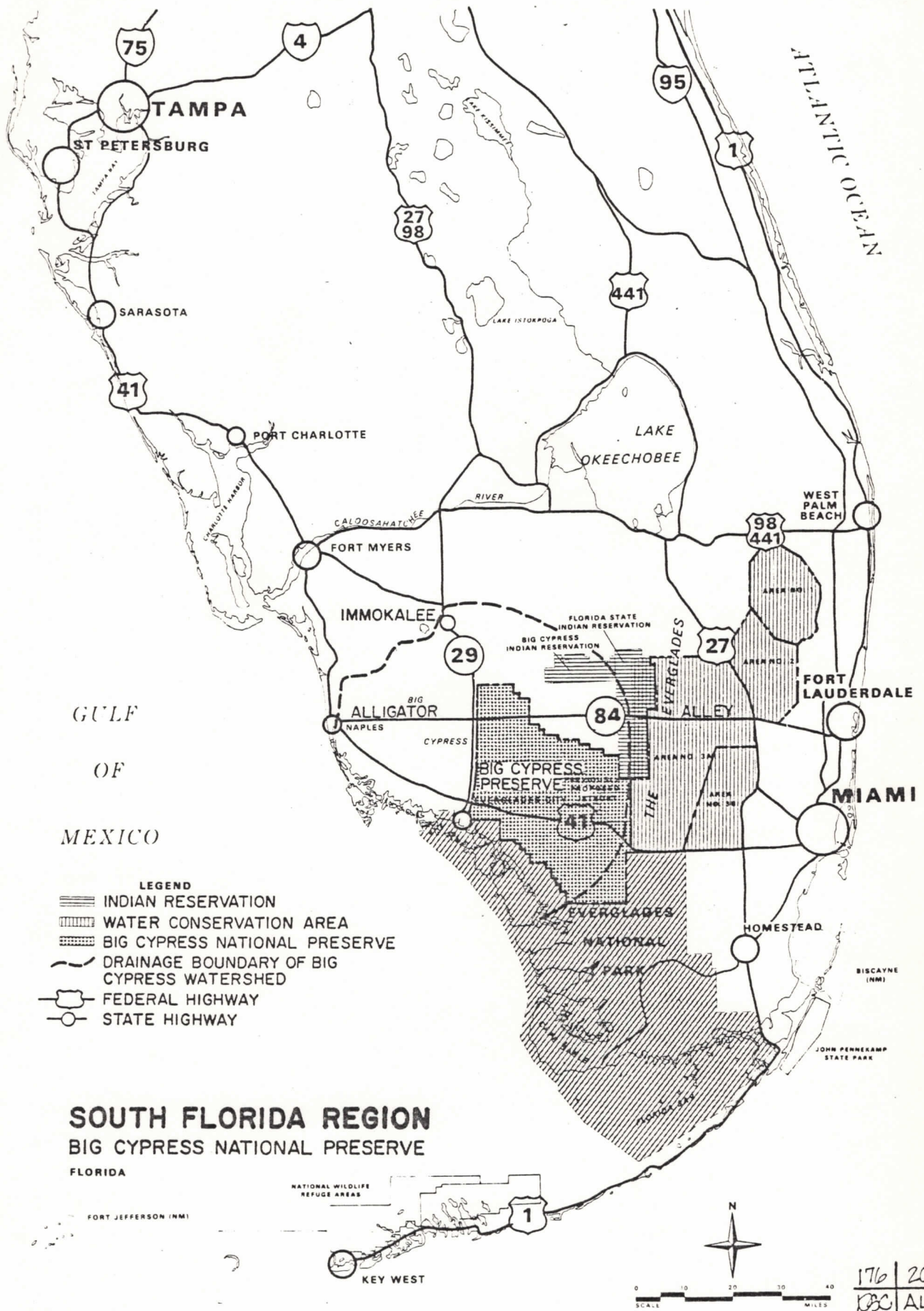
Most wildlife species native to southern Florida inhabit the watershed, and animal life is diverse and abundant. Wildlife species of the preserve are listed in the Final Environmental Statement: Proposal to Establish Big Cypress National Fresh Water Reserve, Florida (U.S. Department of the Interior, National Park Service, 1975).

Ten species of wildlife that are on the list of federally recognized endangered or threatened species inhabit the preserve. They are the following:

- Florida panther (Felis concolor coryi)
- West Indian manatee (Trichechus manatus)
- American alligator (Alligator mississippiensis)
- brown pelican (Penlicanus occidentalis)
- Florida Everglades kite (Rostrhamus sociabilis)
- bald eagle (Haliaeetus leucocephalus)
- Cape Sable sparrow (Ammospiza maritima)
- Arctic peregrine falcon (Falco peregrinus tundrius)
- red-cockaded woodpecker (Dendrocopos borealis)
- Eastern indigo snake (Drymarchon corais couperi)

No critical habitat for any of these species is found within the preserve. The National Park Service will comply fully with the 1973 Endangered Species Act to provide protection to any listed species.

The Florida Committee on Rare and Endangered Plants and Animals has compiled a list of such species based on their populations within Florida. At least 30 species of plants and animals that inhabit the preserve are on this list (Florida Committee on Rare and Endangered Plants and Animals, 1976).



CULTURAL RESOURCES

The preserve contains sources of materials for housing and crafts, and it supports commercial, cultural, and religious activities on which the Seminole and Miccosukee Indians depend; thus Big Cypress is important to both the physical and the spiritual well-being of the Indians.

The authorizing legislation of the preserve provides that Miccosukee and Seminole Indians will be allowed to continue their usual and customary uses within the preserve, subject to reasonable regulation. This has been interpreted to mean that the Indians will be allowed to continue uses existing at the time the preserve was established. These uses include subsistence hunting, fishing, and trapping; residential use; and traditional ceremonial use. Some use of off-road vehicles (ORVs) is made by Indians during subsistence hunting, fishing, and trapping activities.

Numerous middens and other archeological artifacts are scattered throughout the preserve. All cultural resources are subject to protection as outlined in the Historic Preservation Act of 1966.

DEVELOPMENT AND USE

Existing and Proposed Development

Permanent residential and commercial development within the preserve is limited, and it occurs principally along U.S. Highway 41, along Florida 94, and along Collier County 837, 839, and 841, where there are a few homes (see the Existing Conditions map). Pinecrest, on Florida 94, and Ochopee and Monroe Station, on U.S. 41, are the only named residential places in the preserve. Several hundred permanent homes are scattered throughout the preserve. There are also about 25 commercial establishments and 500 to 600 hunting cabins. These cabins are scattered in roadless areas of the preserve and are generally not accessible by conventional vehicle. Many are substandard for housing purposes and are on lands to which the owners do not have title.

The National Park Service currently is conducting a large-scale land acquisition program in the preserve. Approximately 44,000 individual landowners have been identified, and about two-thirds of the surface rights to the land have been acquired or are under condemnation proceedings. The National Park Service anticipates substantial completion of the land acquisition program by the October 1980 legislative deadline.

Owners of improved property on which construction was begun before November 23, 1971, may elect to continue using their

property without its being acquired by the federal government. Such owners are also guaranteed the right of reasonable access. If an owner of improved property elects to sell it to the federal government, he may retain either the right of use and occupancy for a term not to exceed 25 years or a life estate.

A proposal for development in the preserve was outlined in the Final Environmental Statement, Big Cypress National Fresh Water Reserve (USDI, NPS, 1975). A current National Park Service study will further define the exact size, location, and function of each of the facilities proposed. The level of development will be similar to that described in the environmental statement, although there may be some changes in the location and nature of facilities mentioned. Proposed development will be adjacent to existing roads or at existing developed areas, with most of the preserve remaining an undeveloped natural area.

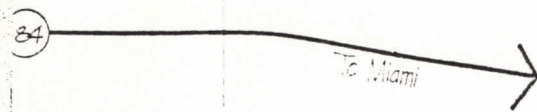
Oil and Gas Exploration and Extraction

The first producing oil well in Florida was drilled in 1943 at Sunniland, about 1 mile north of the preserve. To date, at least 70 test holes have been drilled within the preserve, and 12 of them are currently producers. Most of the producing wells are in the northwest portion of the preserve (see the Existing Conditions map); however, recent explorations have located a prospect in the Raccoon Point area, north of the Dade/Collier county jetport.

Exploration and extraction are the two steps involved in oil and gas operations in the preserve. First, seismic surveys are conducted to determine likely locations. When reserves are found, test holes are drilled to determine the production potential. The development of a test hole requires a road to the well site and about 3 to 5 acres for the construction of the drill pad. The road and drill pad must be elevated several feet in wet areas to prevent year-round flooding. If a well is determined to be unproductive, then it will be abandoned and the road and pad removed. If it is a producer, the pad size will be reduced to about 1 acre, and depending on the quantity produced, either the oil will be trucked out or a pipeline will be constructed to transport oil from the preserve.

Exxon Corporation is the largest oil producer in the preserve; the company currently has an estimated 300,000 acres of gas and oil leases in force. Leases are probably held by other companies, and as much as 75 percent of the preserve may be under lease.

The Big Cypress Swamp Advisory Committee was established in 1971 by the state of Florida to evaluate potential oil and gas exploration and extraction operations within the Big Cypress watershed, including the preserve. Members of this committee are



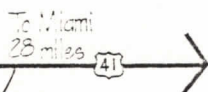
BUGGY TRAILS

AIRBOAT TRAILS

FLORIDA TRAIL

ELEVEN MILE ROAD

TRAILS



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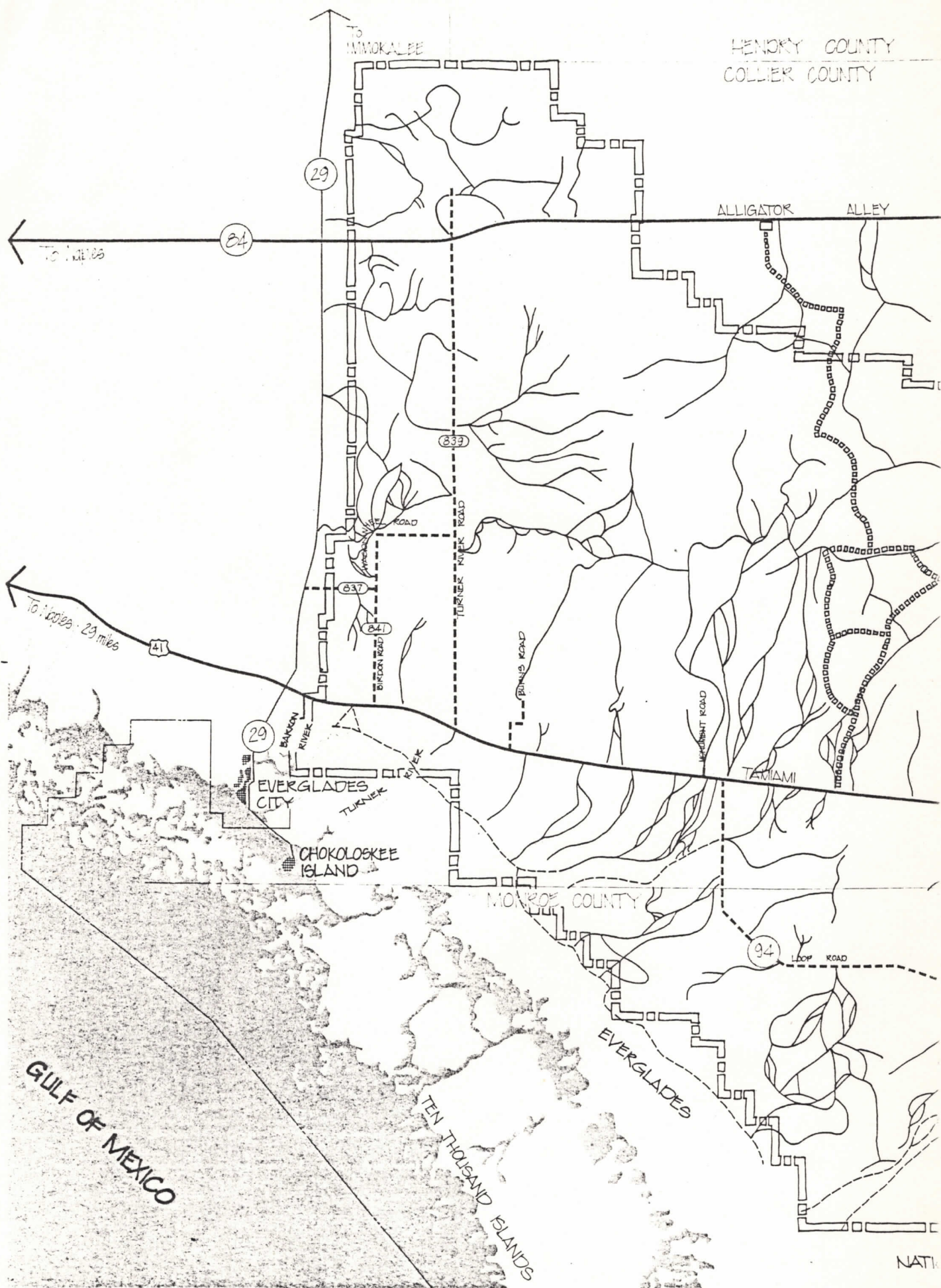


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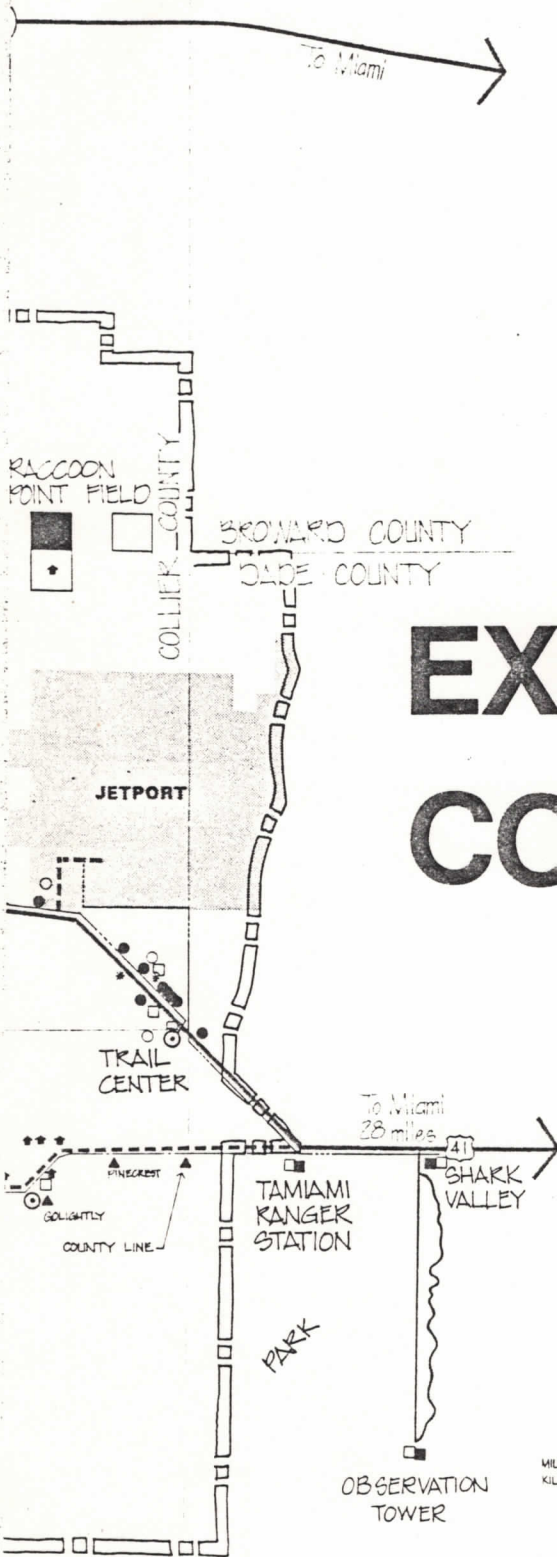
NAL

HENDRY COUNTY
COLLIER COUNTY



LEGEND

- ★ EXEMPT RESIDENTIAL PROPERTIES (AS OF FEBRUARY 1, 1979)
- EXEMPT COMMERCIAL OPERATIONS (AS OF FEBRUARY 1, 1979)
- ⊙ BORROW PITS
- ◻ ROADSIDE PARKS
- INDIAN VILLAGES
- INDIAN CEREMONIAL SITES
- NPS OPERATIONS
- 138 KV OVERHEAD ELECTRIC TRANSMISSION LINE
- 3 PHASE OVERHEAD ELECTRIC DISTRIBUTION LINES
- 3 PHASE UNDERGROUND ELECTRIC DISTRIBUTION LINE
- SINGLE PHASE OVERHEAD ELECTRIC DISTRIBUTION LINE
- W-W- 6" OCHOPEE WATER LINE & SYSTEM
- OIL EXPLORATION & PRODUCTION
- PERMITTED WELLS (AS OF JANUARY 10, 1979)
- ▲ MAJOR ORV ACCESSSES
- NPS HOUSING
- ⊠ NPS HOUSING OCCUPIED BY FLORIDA GAME AND FRESHWATER FISH COMMISSION PERSONNEL



EXISTING CONDITIONS

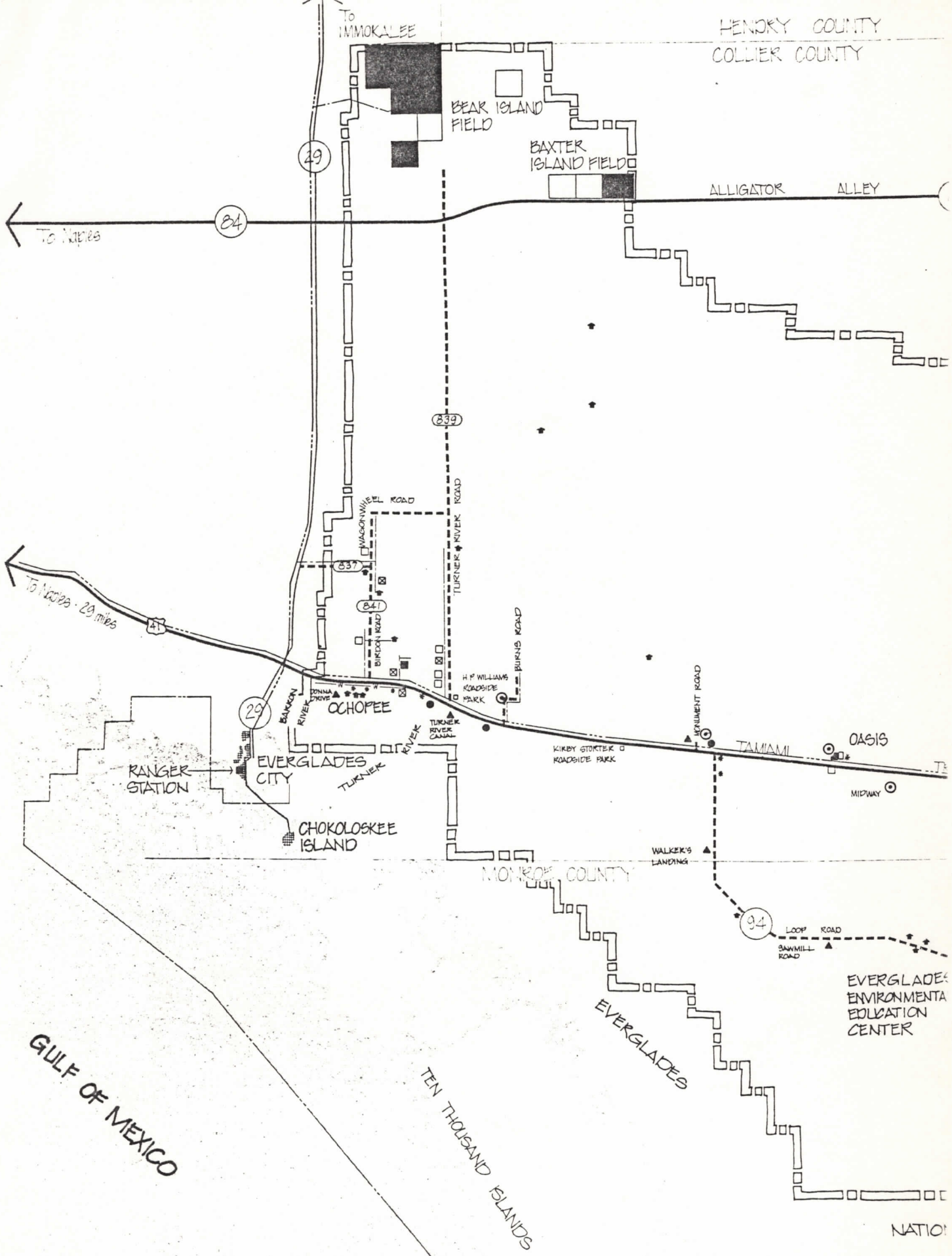
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representatives of the oil industry, state officials, and conservation group members, as well as a hydrologist and a botanist. The committee has recently approved eight additional sites for drilling.

Natural vegetation is precluded during the life of a well; however, initial revegetation of abandoned well sites begins as soon as one year after abandonment and removal of the pad. State law requires a minimum spacing of one well per 160 acres; hence, even in an active field, the total area affected by oil and gas operations is minimal.

Information on the effects of oil and gas operations within the Big Cypress watershed is limited, but to date no detrimental long-term effects have been identified. Analysis by Frank D. Masch and Associates indicates that if culverts are adequate, oil and gas operations have only minimal effects on the flow of surface water.

Regulations governing oil and gas developments in National Park System areas have been recently promulgated. These regulations provide for National Park Service approval of any development prior to construction and for site rehabilitation following the completion of activities.

Onsite monitoring by the Big Cypress Advisory Committee and the recent National Park Service regulations are expected to minimize environmental disturbance from oil- and gas-related developments such as the 11-mile road to the Raccoon Point field. These controls are considered adequate to prevent oil and gas operations from jeopardizing the primary purposes of the preserve.

Agricultural Enterprises

There are no commercial farm units in the preserve; the only important agricultural enterprise is cattle grazing. Virtually all preserve lands north of Alligator Alley, about 40,000 acres, have been leased for cattle grazing.

Visitor Use

Most visitors to Big Cypress National Preserve come from eastern Florida. Many persons hunt or fish in Big Cypress for recreation and/or to supplement their food supplies. The terrain necessitates specialized vehicles for travel, and an estimated 1,000 swamp buggies, 200 to 300 airboats, and 50 to 100 track vehicles are used in the preserve. There is no extensive area in the preserve that is not crossed by some type of vehicle trail. In some places, the trails are up to 0.25 mile wide (see Trails map).

Some ecological damage occurs as a result of this ORV travel, but the precise effects are unknown. The National Park Service has promulgated regulations governing the use of ORVs in the preserve, and these regulations specifically prohibit ORV traffic in the loop road area, which is bounded by U.S. 41 and Florida 94.

Studies now being conducted by the National Park Service will determine the effects of ORV use and how it relates to the protection of the natural values of the preserve. The existing regulations may be modified on the basis of these ongoing studies.

REGIONAL DEVELOPMENT AND TOURIST TRENDS

The Big Cypress watershed has been exploited in many ways. The western portion is so scored by canals that restoration of the area to a natural system would be almost impossible.

The only major urban area near the Big Cypress watershed is Naples. About 60 percent of Collier County's residents live in Naples and its environs, and the population in Naples increased from 9,000 in 1960 to almost 27,000 in 1970. While the ultimate course of development in this area depends on local and state zoning decisions, the land area outside the preserve is adequate for any conceivable future population increase in Collier County, and an area east of Naples is being drained for future residential expansion.

Tourism and population in Florida have grown rapidly in the past 20 years. From 1960 to 1974, the number of tourists visiting the state increased 236 percent, from 10.4 million to 24.5 million. The state's population increased 56 percent in the same period. Since southern Florida's regional population was about 2 million in 1970, and about 6 million tourists visited southern Florida in 1974, the potential for increased recreational use of Big Cypress appears great.

FACTORS AFFECTING WILDERNESS DESIGNATION

THE NATURE OF A PRESERVE

The establishment of Big Cypress and Big Thicket preserves on October 11, 1974, marked the creation of a new category of area in the National Park System. Senate Report 93-1128 (August 22, 1974) outlines the guidelines to be considered in the establishment of a national preserve:

National preserves will be areas of land and/or water which may vary in size, but which possess within their boundaries exceptional values or qualities illustrating the natural heritage of the Nation. . . . The principal thrust of these areas should be the preservation of the natural values which they contain. They might differ, in some respects, from national parks and monuments insofar as administrative policies are concerned. Hunting, for example, subject to reasonable regulation by the Secretary, could be permitted to the extent compatible with the purposes for which the area is established. Other activities, including the extraction of minerals, oil, and gas could be permitted. . . . [A]ll management activities within these areas should be directed toward maintaining the natural and scientific values of the area. . . . National preserves may accommodate significant recreational uses.

Congress clearly wanted to establish a type of area that would be administered differently from existing National Park System units. As in other natural areas of the National Park System, protection of the resources that are responsible for the establishment of a preserve will be the main consideration governing its management; however, a wider variety of legislatively mandated recreational and nonrecreational activities may be permitted in preserves than in most national parks and monuments.

SUBSURFACE RIGHTS

The extent of oil and gas reserves in Big Cypress is unknown. The economic life of the reserves will depend on price fluctuations and available technology. The act establishing Big Cypress National Preserve contains provisions that recognize the uncertainties relating to potential reserves. Oil and gas rights may not be acquired without the consent of the owner unless the Secretary of the Interior deems proposed uses of the property detrimental to the purposes of the preserve.

Subsurface rights within the preserve are being acquired only by waiver; consequently, the federal government is expected to obtain less than 5 percent of the subsurface rights, and they are on land parcels scattered throughout the preserve.

Access for exploration and extraction of oil and gas reserves will be guaranteed on the more than 95 percent of lands with private ownership of subsurface rights, provided that the primary purposes of the preserve are not being detrimentally affected. The use of motorized vehicles is necessary for both exploration and extraction of oil and gas resources. Present studies indicate that controls on oil and gas operations under existing regulations will be adequate to prevent any long-term detrimental effects to the values that are to be protected in the preserve. However, for an indefinite period of time, oil and gas facilities can be expected to replace natural conditions at development sites. Because these oil and gas operations are legislatively authorized to continue, the National Park Service cannot ensure that management of lands with outstanding subsurface rights will be consistent with wilderness designation.

PRIVATELY OWNED IMPROVED PROPERTY

Section 1(c) of the Big Cypress establishing legislation precludes the acquisition of any improved property without the consent of the owner, unless the Secretary of the Interior determines that the present use of the property is detrimental to the purposes of the preserve. The act defines "improved property" as any building or dwelling, including adjacent property, the construction of which was begun before November 23, 1971. Since not all owners of improved property have been contacted by the National Park Service, it is not possible to predict the number or location of buildings that will remain in private ownership. As of February 1979, about 30 private owners had elected to retain ownership of their buildings. The owners are guaranteed reasonable access to their property. Several of the exempt properties known to date are not adjacent to existing roadways (see Existing Conditions map). Continued motorized vehicle access to exempt properties in the interior of the preserve must be permitted, and that use is incompatible with wilderness designation.

USE OF THE PRESERVE BY MICCOSUKEE AND SEMINOLE INDIANS

Section 5 of the act that established the preserve provides that members of the Miccosukee and Seminole tribes will be permitted to continue present use of federal lands and waters in the preserve, subject to reasonable regulation for subsistence hunting, fishing, and trapping; for residential use; and for traditional tribal ceremonies. To continue subsistence hunting, fishing, and

trapping activities, the Indians will have to be permitted to use ORVs in certain sections of the preserve.

USE OF OFF-ROAD VEHICLES (ORVs)

The establishing legislation neither specifically prohibits nor specifically authorizes the use of ORVs in the preserve. Section 4(b) of the act states only that the Secretary of the Interior shall develop such rules and regulations as he deems necessary to limit or control the use of ORVs within the preserve. Swamp buggies and airboats have been traditional transportation in the preserve for many years, and their users say they are the only vehicles that will make possible certain recreational activities. The use of ORVs appears to be consistent with the concept of "significant recreational use" outlined in Senate Report 93-1128 (U.S. Congress, Senate, 1974). The National Park Service currently permits ORV use in substantial portions of the preserve under recently established regulations. Areas in which ORV use is to be continued cannot be managed as wilderness.

S U M M A R Y

Five units within Big Cypress National Preserve were reviewed for their wilderness suitability. These units, excluding roads and structures, comprise a total of 566,421 acres (see Wilderness Study Map). While much of this land is in a natural condition, all of the preserve is subject to uses that affect its wilderness suitability.

Big Cypress National Preserve was established to assure the preservation, conservation, and protection of the natural and recreational values of the area. The establishing legislation also provides for the continuation of certain uses within the preserve. The owners of subsurface rights are permitted to retain those rights and to explore for and extract oil and gas unless the Secretary of the Interior determines that such uses are or would be detrimental to the purposes of the preserve. Oil and gas development, including the construction of roads, utility lines, drilling pads, and extraction and storage facilities, is now taking place and could continue indefinitely. Some surface rights associated with improved residential and commercial developments are also indefinitely exempt from acquisition. The imprint of past use is present virtually everywhere in the preserve. Numerous ORV trails created over the past 40 years transect all parts of the preserve and provide access to 500 or 600 hunting cabins. The use of ORVs by Miccosukee and Seminole Indians for subsistence hunting, fishing, and trapping is authorized to continue, subject to reasonable regulation. Large grazing leases and an active jetport training field are further evidences of human influence. At some times of the year, hunting season in particular, opportunities for solitude and primitive recreation within the preserve are substantially limited. Because of the legislative constraints that provide for the above nonwilderness types of use, the preliminary finding of the National Park Service is that no lands are currently suitable for management as wilderness.

The legislation establishing the preserve calls for management of the area to protect its natural values, including the surface waterflow and the associated flora and fauna. National Park Service management will be directed toward achieving this objective within the legislative requirements of the establishing act. The goals of this management will be to maximize the protection of existing natural values and to restore previously impacted areas so that possible future designation as wilderness will not be compromised.

The loop road unit is the one part of Big Cypress that most nearly provides visitors an opportunity for a wilderness experience. ORV use and the construction of hunting camps in this area have been limited by heavy vegetation. Recently promulgated regulations now prohibit the use of ORVs in this area. Past oil and gas exploration



WILDLIFE MANAGEMENT UNITS

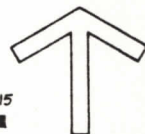
| | TOTAL ACREAGE | ROADS & STRUCTURES IN ACRES | REMAINING ACREAGE |
|------------------|------------------|--------------------------------|----------------------|
| BEAR ISLAND UNIT | 38,258.65 | 218.20 | 38,040.45 |
| DEEP LAKE UNIT | 48,355.87 | 778.20 | 47,577.67 |
| STAIRSTEPS UNIT | 143,987.12 | 705.50 | 143,281.62 |
| LOOP ROAD UNIT | 55,607.71 | 800.00 | 54,807.71 |
| MONUMENT UNIT | 283,790.65 | 1,076.40 | 282,714.25 |
| TOTALS | 570,000 | 3,578.30 | 566,421.70 |

PRELIMINARY-SUBJECT TO CHANGE

WILDERNESS STUDY MAP

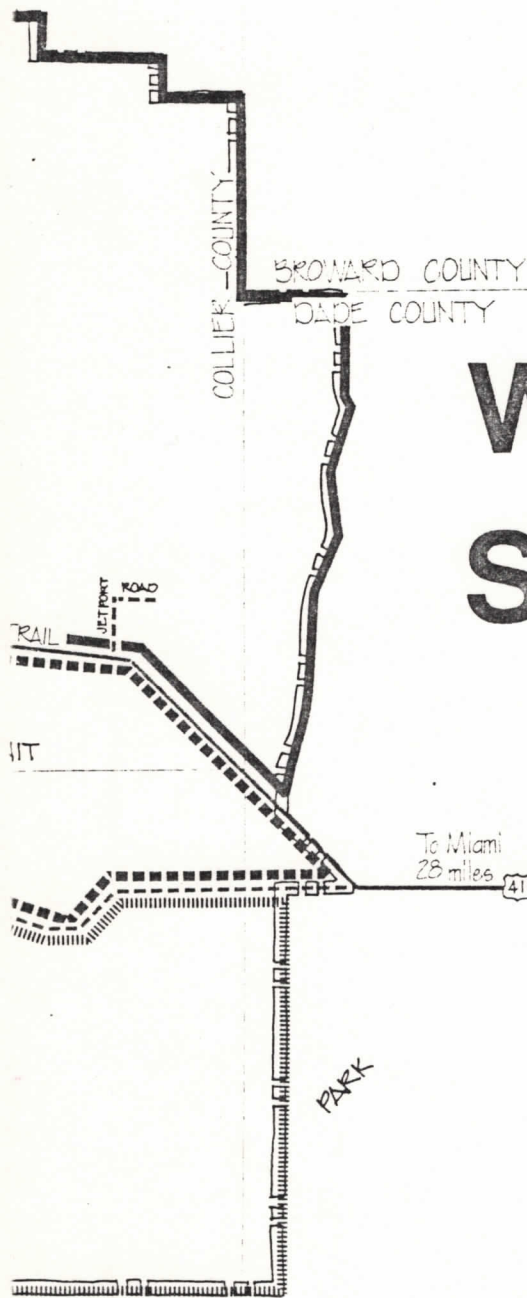
NO WILDERNESS PROPOSED

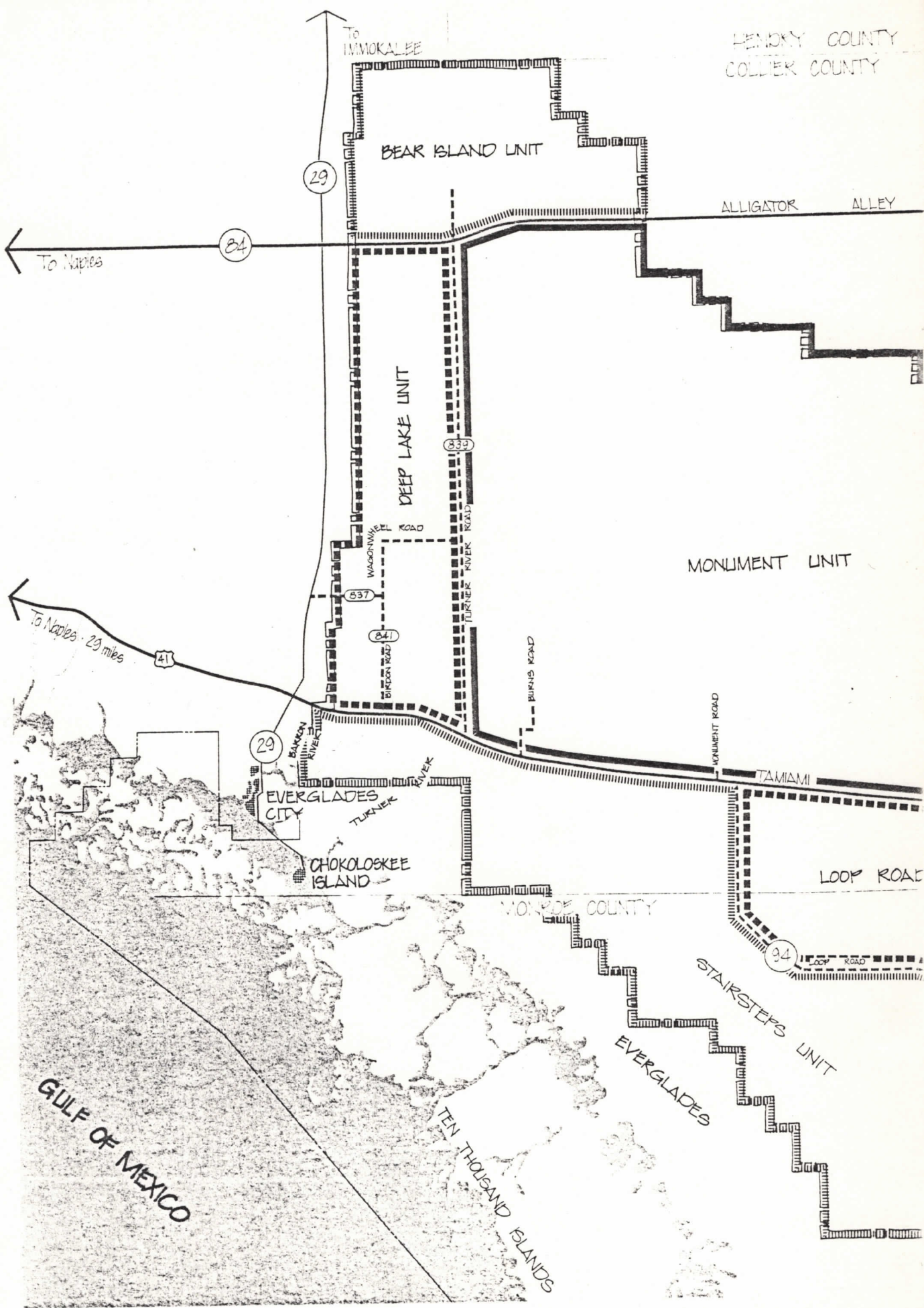
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in the loop road area has not revealed any producible reserves, and no additional interest in exploration has been demonstrated. Some properties in the area are exempt from acquisition by the federal government, but they are near existing roads. This unit will continue to be managed so that administrative practices and visitors' activities do not jeopardize its suitability for future wilderness designation.

Wilderness suitability for Big Cypress National Preserve will be reconsidered in about five years when research has better defined the impacts of ORV use, when results of oil exploration have indicated whether or not there are oil reserves with potential for extraction, and when the number and location of permanent private surface inholdings are known.

A P P E N D I X E S

A: ESTABLISHING LEGISLATION



Public Law 93-440
93rd Congress, H. R. 10088
October 11, 1974

An Act

88 STAT. 1258

To establish the Big Cypress National Preserve in the State of Florida, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in order to assure the preservation, conservation, and protection of the natural, scenic, hydrologic, floral and faunal, and recreational values of the Big Cypress Watershed in the State of Florida and to provide for the enhancement and public enjoyment thereof, the Big Cypress National Preserve is hereby established.

Big Cypress
National Pre-
serve, Fla.
Establishment.
16 USC 698f.

(b) The Big Cypress National Preserve (hereafter referred to as the "preserve") shall comprise the area generally depicted on the map entitled "Big Cypress National Preserve", dated November 1971 and numbered BC-91,001, which shall be on file and available for public inspection in the Offices of the National Park Service, Department of the Interior, Washington, District of Columbia, and shall be filed with appropriate offices of Collier, Monroe, and Dade Counties in the State of Florida. The Secretary of the Interior (hereafter referred to as the "Secretary") shall, as soon as practicable, publish a detailed description of the boundaries of the preserve in the Federal Register which shall include not more than five hundred and seventy thousand acres of land and water.

Map and descrip-
tion, filing.

Publication in
Federal Regis-
ter.

(c) The Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, transfer from any other Federal agency, or exchange, any lands, waters, or interests therein which are located within the boundaries of the preserve: *Provided*, That any lands owned or acquired by the State of Florida, or any of its subdivisions, may be acquired by donation only: *Provided further*, That no Federal funds shall be appropriated until the Governor of Florida executes an agreement on behalf of the State which (i) provides for the transfer to the United States of all lands within the preserve previously owned or acquired by the State and (ii) provides for the donation to the United States of all lands acquired by the State within the preserve pursuant to the provision of "the Big Cypress Conservation Act of 1973" (Chapter 73-131 of the Florida Statutes) or provides for the donation to the United States of any remaining moneys appropriated pursuant to such Act for the purchase of lands within the preserve. No improved property, as defined by this Act, nor oil and gas rights, shall be acquired without the consent of the owner unless the Secretary, in his judgment, determines that such property is subject to, or threatened with, uses which are, or would be, detrimental to the purposes of the preserve. The Secretary may, if he determines that the acquisition of any other subsurface estate is not needed for the purposes of the preserve, exclude such interest in acquiring any lands within the preserve. Notwithstanding the provisions of section 301 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894, 1904) the Secretary (i) may evaluate any offer to sell land within the preserve by any landowner and may, in his discretion, accept any offer not in excess of \$10,000 without an appraisal and (ii) may direct an appraisal to be made of any unimproved property within the preserve without notice to the owner or owners thereof. Notwithstanding any other provision of law, any federally owned lands within the preserve shall, with the concurrence of the head of the administering agency, be transferred to the administrative jurisdiction of the Secretary for the purposes of this Act, without transfer of funds.

Lands, waters,
acquisition.

42 USC 4651.

16 USC 698g.

SEC. 2. (a) In recognition of the efforts of the State of Florida in the preservation of the area, through the enactment of chapter 73-131 of the Florida statutes, "The Big Cypress Conservation Act of 1973", the Secretary is directed to proceed as expeditiously as possible to acquire the lands and interests in lands necessary to achieve the purposes of this Act.

Land acquisition plan, commitment to congressional committees.

(b) Within one year after the date of the enactment of this Act, the Secretary shall submit, in writing, to the Committee on Interior and Insular Affairs and to the Committees on Appropriations of the United States Congress a detailed plan which shall indicate:

(i) the lands and areas which he deems essential to the protection and public enjoyment of this preserve,

(ii) the lands which he has previously acquired by purchase, donation, exchange or transfer for administration for the purpose of this preserve, and

(iii) the annual acquisition program (including the level of funding) which he recommends for the ensuing five fiscal years.

Completion date.

(c) It is the express intent of the Congress that the Secretary should substantially complete the land acquisition program contemplated by this Act within six years after the date of its enactment.

Property owners, retention rights.
16 USC 698h.

SEC. 3. (a) The owner of an improved property on the date of its acquisition by the Secretary may, as a condition of such acquisition, retain for himself and his heirs and assigns a right of use and occupancy of the improved property for a definite term of not more than twenty-five years or, in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. The owner shall elect the term to be reserved. Unless this property is wholly or partially donated to the United States, the Secretary shall pay the owner the fair market value of the property on the date of acquisition less the fair market value, on that date, of the right retained by the owner. A right retained pursuant to this section shall be subject to termination by the Secretary upon his determination that it is being exercised in a manner inconsistent with the purposes of this Act, which shall include the exercise of such right in violation of any applicable State or local laws and ordinances, and it shall terminate by operation of law upon the Secretary's notifying the holder of the right of such determination and tendering to him an amount equal to the fair market value of that portion of the right which remains unexpired.

"Improved property."

(b) As used in this Act, the term "improved property" means:

(i) a detached one family dwelling, construction of which was begun before November 23, 1971, which is used for noncommercial residential purposes, together with not to exceed three acres of land on which the dwelling is situated and such additional lands as the Secretary deems reasonably necessary for access thereto, such land being in the same ownership as the dwelling, and together with any structures accessory to the dwelling which are situated on such lands and

(ii) any other building, construction of which was begun before November 23, 1971, which was constructed and is used in accordance with all applicable State and local laws and ordinances, together with as much of the land on which the building is situated, such land being in the same ownership as the building, as the Secretary shall designate to be reasonably necessary for the continued enjoyment and use of the building in the same manner and to the same extent as existed in November 23, 1971, together with any structures accessory to the building which are situated on the lands so designated. In making such designation

the Secretary shall take into account the manner of use in which the building, accessory structures, and lands were customarily enjoyed prior to November 23, 1971.

(c) Whenever an owner of property elects to retain a right of use and occupancy as provided in this section, such owner shall be deemed to have waived any benefits or rights accruing under sections 203, 204, 205, and 206 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894), and for the purposes of such sections such owner shall not be considered a displaced person as defined in section 101(6) of such Act.

SEC. 4. (a) The area within the boundaries depicted on the map referred to in section 1 shall be known as the Big Cypress National Preserve. Such lands shall be administered by the Secretary as a unit of the National Park System in a manner which will assure their natural and ecological integrity in perpetuity in accordance with the provisions of this Act and with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4), as amended and supplemented.

(b) In administering the preserve, the Secretary shall develop and publish in the Federal Register such rules and regulations as he deems necessary and appropriate to limit or control the use of Federal lands and waters with respect to:

- (1) motorized vehicles,
- (2) exploration for and extraction of oil, gas, and other minerals,
- (3) grazing,
- (4) draining or constructing of works or structures which alter the natural water courses,
- (5) agriculture,
- (6) hunting, fishing, and trapping,
- (7) new construction of any kind, and
- (8) such other uses as the Secretary determines must be limited or controlled in order to carry out the purposes of this Act: *Provided*, That the Secretary shall consult and cooperate with the Secretary of Transportation to assure that necessary transportation facilities shall be located within existing or reasonably expanded rights-of-way and constructed within the reserve in a manner consistent with the purposes of this Act.

SEC. 5. The Secretary shall permit hunting, fishing, and trapping on lands and waters under his jurisdiction within the preserve in accordance with the applicable laws of the United States and the State of Florida, except that he may designate zones where and periods when no hunting, fishing, trapping, or entry may be permitted for reasons of public safety, administration, floral and faunal protection and management, or public use and enjoyment. Except in emergencies, any regulations prescribing such restrictions relating to hunting, fishing, or trapping shall be put into effect only after consultation with the appropriate State agency having jurisdiction over hunting, fishing, and trapping activities. Notwithstanding this section or any other provision of this Act, members of the Miccosukee Tribe of Indians of Florida and members of the Seminole Tribe of Florida shall be permitted, subject to reasonable regulations established by the Secretary, to continue their usual and customary use and occupancy of Federal or federally acquired lands and waters within the preserve, including hunting, fishing, and trapping on a subsistence basis and traditional tribal ceremonials.

SEC. 6. Notwithstanding any other provision of law, before entering into any contract for the provision of revenue producing visitor services,

Waiver.

42 USC 4623-4626.

42 USC 4601.

Administration.
16 USC 6981.

Rules and regulations; publication in Federal Register.

Transportation facilities.

Hunting and fishing.
16 USC 698j.

Miccosukee and Seminole Indian Tribes, land use, retention rights.

Visitor services, contracts.
16 USC 698k.

(i) the Secretary shall offer those members of the Miccosukee and Seminole Indian Tribes who, on January 1, 1972, were engaged in the provision of similar services, a right of first refusal to continue providing such services within the preserve subject to such terms and conditions as he may deem appropriate, and

(ii) before entering into any contract or agreement to provide new revenue-producing visitor services within the preserve, the Secretary shall offer to the Miccosukee Tribe of Indians of Florida and the Seminole Tribe of Florida the right of first refusal to provide such services, the right to be open for a period of ninety days. Should both Tribes respond with proposals that satisfy the terms and conditions established by the Secretary, the Secretary may allow the Tribes an additional period of ninety days in which to enter into an inter-Tribal cooperative agreement to provide such visitor services, but if neither tribe responds with proposals that satisfy the terms and conditions established by the Secretary, then the Secretary shall provide such visitor services in accordance with the Act of October 9, 1965 (79 Stat. 969, 16 U.S.C. 20). No such agreement may be assigned or otherwise transferred without the consent of the Secretary.

Preserve review,
report to Pres-
ident.
16 USC 6981.

16 USC 1131
note.
Appropriation.
16 USC 698m.

Funds donated
to U.S. by
State of Flor-
ida, use.

SEC. 7. Within five years from the date of the enactment of this Act, the Secretary shall review the area within the preserve and shall report to the President, in accordance with section 3 (c) and (d) of the Wilderness Act (78 Stat. 891; 16 U.S.C. 1132 (c) and (d)), his recommendations as to the suitability or unsuitability of any area within the preserve for preservation as wilderness, and any designation of any such areas as a wilderness shall be accomplished in accordance with said subsections of the Wilderness Act.

SEC. 8. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, but not to exceed \$116,000,000 for the acquisition of lands and interests in lands and not to exceed \$900,000 for development. Any funds donated to the United States by the State of Florida pursuant to chapter 73-131 of the Florida statutes shall be used solely for the acquisition of lands and interests in land within the preserve.

Approved October 11, 1974.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 93-502 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 93-1128 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD:

Vol. 119 (1973): Oct. 3, considered and passed House.
Vol. 120 (1974): Sept. 9, considered and passed Senate, amended.
Sept. 24, House concurred in Senate amendments
with amendments.
Oct. 1, Senate concurred in House amendments to
Senate amendments.

B: WILDERNESS ACT

Public Law 88-577
88th Congress, S. 4
September 3, 1964

An Act

To establish a National Wilderness Preservation System for the permanent good of the whole people, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Wilderness Act."

WILDERNESS SYSTEM ESTABLISHED—STATEMENT OF POLICY

SECTION 2. (a) In order to assure that an increasing population, accompanied by expanding settlement and growing mechanization, does not occupy and modify all areas within the United States and its possessions, leaving no lands designated for preservation and protection in their natural condition, it is hereby declared to be the policy of the Congress to secure for the American people of present and future generations the benefits of an enduring resource of wilderness. For this purpose there is hereby established a National Wilderness Preservation System to be composed of federally owned areas designated by Congress as "wilderness areas", and these shall be administered for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of these areas, the preservation of their wilderness character, and for the gathering and dissemination of information regarding their use and enjoyment as wilderness; and no Federal lands shall be designated as "wilderness areas" except as provided for in this Act or by a subsequent Act.

(b) The inclusion of an area in the National Wilderness Preservation System notwithstanding, the area shall continue to be managed by the Department and agency having jurisdiction thereover immediately before its inclusion in the National Wilderness Preservation System unless otherwise provided by Act of Congress. No appropriation shall be available for the payment of expenses or salaries for the administration of the National Wilderness Preservation System as a separate unit nor shall any appropriations be available for additional personnel stated as being required solely for the purpose of managing or administering areas solely because they are included within the National Wilderness Preservation System.

DEFINITION OF WILDERNESS

(c) A wilderness, in contrast with those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain. An area of wilderness is further defined to mean in this Act an area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions and which (1) generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable; (2) has outstanding opportunities for solitude or a primitive and unconfined type of recreation; (3) has at least five thousand acres of land or is of sufficient size as to make practicable its preservation and use in an unimpaired condition; and (4) may also contain ecological, geological, or other features of scientific, educational, scenic, or historical value.

NATIONAL WILDERNESS PRESERVATION SYSTEM—EXTENT OF SYSTEM

SECTION 3. (a) All areas within the national forests classified at least 30 days before the effective date of this Act by the Secretary of Agriculture or the Chief of the Forest Service as "wilderness," "wild," or "canoe" are hereby designated as wilderness areas. The Secretary of Agriculture shall—

(1) Within one year after the effective date of this Act, file a map and legal description of each wilderness area with the Interior and Insular Affairs Committees of the United States Senate and the House of Representatives, and such descriptions shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal descriptions and maps may be made.

(2) Maintain, available to the public, records pertaining to said wilderness areas, including maps and legal descriptions, copies of regulations governing them, copies of public notices of, and reports submitted to Congress regarding pending additions, eliminations, or modifications. Maps, legal descriptions, and regulations pertaining to wilderness areas within their respective jurisdictions also shall be available to the public in the offices of regional foresters, national forest supervisors, and forest rangers.

Classification. (b) The Secretary of Agriculture shall, within ten years after the enactment of this Act, review, as to its suitability or non-suitability for preservation as wilderness, each area in the national forests classified on the effective date of this Act by the Secretary of Agriculture or the Chief of the Forest Service as "primitive" and report his findings to the President.

Presidential recommendation to Congress. The President shall advise the United States Senate and House of Representatives of his recommendations with respect to the designation as "wilderness" or other

reclassification of each area on which review has been completed, together with maps and a definition of boundaries. Such advice shall be given with respect to not less than one-third of all the areas now classified as "primitive" within three years after the enactment of this Act, not less than two-thirds within seven years after the enactment of this Act, and the remaining areas within ten years after the enactment of this Act.

Congressional approval. Each recommendation of the President for designation as "wilderness" shall become effective only if so provided by an Act of Congress. Areas classified as "primitive" on the effective date of this Act shall continue to be administered under the rules and regulations affecting such areas on the effective date of this Act until Congress has determined otherwise. Any such area may be increased in size by the President at the time he submits his recommendations to the Congress by not more than five thousand acres with no more than one thousand two hundred and eighty acres of such increase in any one compact unit; if it is proposed to increase the size of any such area by more than five thousand acres or by more than one thousand two hundred and eighty acres in any one compact unit the increase in size shall not become effective until acted upon by Congress. Nothing herein contained shall limit the President in proposing, as part of his recommendations to Congress, the alteration of existing boundaries of primitive areas or recommending the addition of any contiguous area of national forest lands predominantly of wilderness value. Notwithstanding any other provisions of this Act, the Secretary of Agriculture may complete his review and delete such area as may be necessary, but not to exceed seven thousand acres, from the southern tip of the Gore Range-Eagles Nest Primitive Area, Colorado, if the Secretary determines that such action is in the public interest.

Report to President. (c) Within ten years after the effective date of this Act the Secretary of the Interior shall review every roadless area of five thousand contiguous acres or more in the national parks, monuments and other units of the national park system and every such area of, and every roadless island within, the national wildlife refuges and game ranges, under his jurisdiction on the effective date of this Act and shall report to the President his recommendation as to the suitability or non-suitability of each such area or island for preservation as wilderness.

Presidential recommendation to Congress. The President shall advise the President of the Senate and the Speaker of the House of Representatives of his recommendation with respect to the designation as wilderness of each such area or island on which review has been completed, together with a map thereof and a definition of its boundaries. Such advice shall be given with respect to not less than one-third of the areas and islands to be reviewed under this subsection within three years after enactment of this Act, not less than two-thirds within seven years of enactment of this Act, and the remainder within ten years of enactment of this Act.

Congressional approval. A recommendation of the President for designation as wilderness shall become effective only if so provided by an Act of Congress. Nothing contained herein shall, by implication or other-

wise, be construed to lessen the present statutory authority of the Secretary of the Interior with respect to the maintenance of roadless areas within units of the national park system.

Suitability. (d) (1) The Secretary of Agriculture and the Secretary of the Interior shall, prior to submitting any recommendations to the President with respect to the suitability of any area for preservation as wilderness —

Publication in Federal Register. (A) give such public notice of the proposed action as they deem appropriate, including publication in the Federal Register and in a newspaper having general circulation in the area or areas in the vicinity of the affected land;

Hearings. (B) hold a public hearing or hearings at a location or locations convenient to the area affected. The hearings shall be announced through such means as the respective Secretaries involved deem appropriate, including notices in the Federal Register and in newspapers of general circulation in the area: *Provided.* That if the lands involved are located in more than one State, at least one hearing shall be held in each State in which a portion of the land lies;

(C) at least thirty days before the date of a hearing advise the Governor of each State and the governing board of each county, or in Alaska the borough, in which the lands are located, and Federal departments and agencies concerned, and invite such officials and Federal agencies to submit their views on the proposed action at the hearing or by no later than thirty days following the date of the hearing.

(2) Any views submitted to the appropriate Secretary under the provisions of (1) of this subsection with respect to any area shall be included with any recommendations to the President and to Congress with respect to such area.

Proposed modification. (e) Any modification or adjustment of boundaries of any wilderness area shall be recommended by the appropriate Secretary after public notice of such proposal and public hearing or hearings as provided in subsection (d) of this section. The proposed modification or adjustment shall then be recommended with map and description thereof to the President. The President shall advise the United States Senate and the House of Representatives of his recommendations with respect to such modification or adjustment and such recommendations shall become effective only in the same manner as provided for in subsections (b) and (c) of this section.

USE OF WILDERNESS AREAS

SECTION 4. (a) The purposes of this Act are hereby declared to be within and supplemental to the purposes for which national forests and units of the national park and wildlife refuge systems are established and administered and —

(1) Nothing in this Act shall be deemed to be in interference with the purpose for which national forests are established as set forth in the Act of June 4, 1897 (30 Stat. 11), and the Multiple-Use Sustained-Yield Act of June 12, 1960 (74 Stat. 215).

(2) Nothing in this Act shall modify the restrictions and provisions of the Shipstead-Nolan Act (Public Law 539, Seventy-first Congress, July 10, 1930; 46 Stat. 1020), the Thye-Blatnik Act (Public Law 733, Eightieth Congress, June 22, 1948; 62 Stat. 568), and the Humphrey-Thye-Blatnik-Andresen Act (Public Law 607, Eighty-fourth Congress, June 22, 1956; 70 Stat. 326), as applying to the Superior National Forest or the regulations of the Secretary of Agriculture.

(3) Nothing in this Act shall modify the statutory authority under which units of the national park system are created. Further, the designation of any area of any park, monument, or other unit of the national park system as a wilderness area pursuant to this Act shall in no manner lower the standards evolved for the use and preservation of such park, monument, or other unit of the national park system in accordance with the Act of August 25, 1916, the statutory authority under which the area was created, or any other Act of Congress which might pertain to or affect such area, including, but not limited to, the Act of June 8, 1906 (34 Stat. 225; 16 U.S.C. 432 et seq.); section 3(2) of the Federal Power Act (16 U.S.C. 796 (2)); and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461 et seq.).

(b) Except as otherwise provided in this Act, each agency administering any area designated as wilderness shall be responsible for preserving the wilderness character of the area and shall so administer such area for such other purposes for which it may have been established as also to preserve its wilderness character. Except as otherwise provided in this Act, wilderness areas shall be devoted to the public purposes of recreational, scenic, scientific, educational, conservation, and historical use.

PROHIBITION OF CERTAIN USES

(c) Except as specifically provided for in this Act, and subject to existing private rights, there shall be no commercial enterprise and no permanent road within any wilderness area designated by this Act and, except as necessary to meet minimum requirements for the administration of the area for the purpose of this Act (including measures required in emergencies involving the health and safety of persons within the area), there shall be no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation within any such area.

SPECIAL PROVISIONS

(d) The following special provisions are hereby made:

(1) Within wilderness areas designated by this Act the use of aircraft or motorboats, where these uses have already become established, may be permitted to continue subject to such restrictions as the Secretary of Agriculture deems desirable. In addition, such measures may be taken as

may be necessary in the control of fire, insects, and diseases, subject to such conditions as the Secretary deems desirable.

(2) Nothing in this Act shall prevent within national forest wilderness areas any activity, including prospecting, for the purpose of gathering information about mineral or other resources, if such activity is carried on in a manner compatible with the preservation of the wilderness environment. Furthermore, in accordance with such program as the Secretary of the Interior shall develop and conduct in consultation with the Secretary of Agriculture, such areas shall be surveyed on a planned, recurring basis consistent with the concept of wilderness preservation by the Geological Survey and the Bureau of Mines to determine the mineral values, if any, that may be present; and the results of such surveys shall be made available to the public and submitted to the President and Congress.

Mineral leases, claims, etc. (3) Notwithstanding any other provisions of this Act, until midnight December 31, 1983, the United States mining laws and all laws pertaining to mineral leasing shall, to the same extent as applicable prior to the effective date of this Act, extend to those national forest lands designated by this Act as "wilderness areas"; subject, however, to such reasonable regulations governing ingress and egress as may be prescribed by the Secretary of Agriculture consistent with the use of the land for mineral location and development and exploration, drilling, and production, and use of land for transmission lines, waterlines, telephone lines, or facilities necessary in exploring, drilling, producing, mining, and processing operations, including where essential the use of mechanized ground or air equipment and restoration as near as practicable of the surface of the land disturbed in performing prospecting, location, and, in oil and gas leasing, discovery work, exploration, drilling, and production, as soon as they have served their purpose. Mining locations lying within the boundaries of said wilderness areas shall be held and used solely for mining or processing operations and uses reasonably incident thereto; and hereafter, subject to valid existing rights, all patents issued under the mining laws of the United States affecting national forest lands designated by this Act as wilderness areas shall convey title to the mineral deposits within the claim, together with the right to cut and use so much of the mature timber therefrom as may be needed in the extraction, removal, and beneficiation of the mineral deposits, if the timber is not otherwise reasonably available, and if the timber is cut under sound principles of forest management as defined by the national forest rules and regulations, but each such patent shall reserve to the United States all title in or to the surface of the lands and products thereof, and no use of the surface of the claim or the resources therefrom not reasonably required for carrying on mining or prospecting shall be allowed except as otherwise expressly provided in this Act: *Provided*, That, unless hereafter specifically authorized, no patent within wilderness areas designated by this Act shall issue after December 31, 1983, except for the valid claims existing on or before December 31, 1983. Mining claims located after the effective date of this Act within the boundaries of wilderness areas designated by this Act shall create no rights in excess of those rights which may be patented under the provisions of this subsection.

Mineral leases, permits, and licenses covering lands within national forest wilderness areas designated by this Act shall contain such reasonable stipulations as may be prescribed by the Secretary of Agriculture for the protection of the wilderness character of the land consistent with the use of the land for the purposes for which they are leased, permitted, or licensed. Subject to valid rights then existing, effective January 1, 1984, the minerals in lands designated by this Act as wilderness areas are withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing and all amendments thereto.

Water resources. (4) Within wilderness areas in the national forests designated by this Act, (1) the President may, within a specific area and in accordance with such regulations as he may deem desirable, authorize prospecting for water resources, the establishment and maintenance of reservoirs, water-conservation works, power projects, transmission lines, and other facilities needed in the public interest, including the road construction and maintenance essential to development and use thereof, upon his determination that such use or uses in the specific area will better serve the interests of the United States and the people thereof than will its denial; and (2) the grazing of livestock, where established prior to the effective date of this Act, shall be permitted to continue subject to such reasonable regulations as are deemed necessary by the Secretary of Agriculture.

(5) Other provisions of this Act to the contrary notwithstanding, the management of the Boundary Waters Canoe Area, formerly designated as the Superior, Little Indian Sioux, and Caribou Roadless Areas, in the Superior National Forest, Minnesota, shall be in accordance with regulations established by the Secretary of Agriculture in accordance with the general purpose of maintaining, without unnecessary restrictions on other uses, including that of timber, the primitive character of the area, particularly in the vicinity of lakes, streams, and portages: *Provided*, That nothing in this Act shall preclude the continuance within the area of any already established use of motorboats.

(6) Commercial services may be performed within the wilderness areas designated by this Act to the extent necessary for activities which are proper for realizing the recreational or other wilderness purposes of the areas.

(7) Nothing in this Act shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from State water laws.

(8) Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the several States with respect to wildlife and fish in the national forests.

STATE AND PRIVATE LANDS WITHIN WILDERNESS AREAS

SECTION 5. (a) In any case where State-owned or privately owned land is completely surrounded by national forest lands within areas designated by this Act as wilderness, such State or private owner shall be given

such rights as may be necessary to assure adequate access to such State-owned or privately owned land by such State or private owner and their successors in interest, or the State-owned land or privately owned land shall be exchanged for federally owned land in the same State of approximately equal value under authorities available to the Secretary of Agriculture:

Transfers, restriction. Provided, however, That the United States shall not transfer to a State or private owner any mineral interests unless the State or private owner relinquishes or causes to be relinquished to the United States the mineral interest in the surrounded land.

(b) In any case where valid mining claims or other valid occupancies are wholly within a designated national forest wilderness area, the Secretary of Agriculture shall, by reasonable regulations consistent with the preservation of the area as wilderness, permit ingress and egress to such surrounded areas by means which have been or are being customarily enjoyed with respect to other such areas similarly situated.

Acquisition. (c) Subject to the appropriation of funds by Congress, the Secretary of Agriculture is authorized to acquire privately owned land within the perimeter of any area designated by this Act as wilderness if (1) the owner concurs in such acquisition or (2) the acquisition is specifically authorized by Congress.

GIFTS, BEQUESTS, AND CONTRIBUTIONS

SECTION. 6. (a) The Secretary of Agriculture may accept gifts or bequests of land within wilderness areas designated by this Act for preservation as wilderness. The Secretary of Agriculture may also accept gifts or bequests of land adjacent to wilderness areas designated by this Act for preservation as wilderness if he has given sixty days advance notice thereof to the President of the Senate and the Speaker of the House of Representatives. Land accepted by the Secretary of Agriculture under this section shall become part of the wilderness area involved. Regulations with regard to any such land may be in accordance with such agreements, consistent with the policy of this Act, as are made at the time of such gift, or such conditions, consistent with such policy, as may be included in, and accepted with, such bequest.

(b) The Secretary of Agriculture or the Secretary of the Interior is authorized to accept private contributions and gifts to be used to further the purposes of this Act.

ANNUAL REPORTS

SECTION 7. At the opening of each session of Congress, the Secretaries of Agriculture and Interior shall jointly report to the President for transmission to Congress on the status of the wilderness system, including a list and descriptions of the areas in the system, regulations in effect, and other pertinent information, together with any recommendations they may care to make.

Approved September 3, 1964.

LEGISLATIVE HISTORY:

HOUSE REPORTS:

No. 1538 accompanying H. R. 9070 (Committee on Interior & Insular Affairs) and No. 1829 (Committee of Conference).

SENATE REPORT:

No. 109 (Committee on Interior & Insular Affairs).

CONGRESSIONAL RECORD:

Vol. 109 (1963): April 4, 8, considered in Senate.

April 9, considered and passed Senate.

Vol. 110 (1964): July 28, considered in House.

July 30, considered and passed House, amended, in lieu of H. R. 9070.

August 20, House and Senate agreed to conference report.

C: DEPARTMENTAL GUIDELINES FOR WILDERNESS PROPOSALS

[copy]

United States Department of the Interior

Office of the Secretary
Washington, D.C. 20240

June 24, 1972

Memorandum

To: Director, Bureau of Sport Fisheries
and Wildlife

Director, National Park Service

From: Assistant Secretary for Fish and Wildlife
and Parks

Subject: Guidelines for Wilderness Proposals — Reference
Secretarial Order No. 2920

In the course of developing wilderness proposals we should strive to give the areas under study wilderness designation but not at the expense of losing the essential management prerogatives that are necessary to fulfill the purposes for which the areas were originally intended. Although each area under study must be considered separately, with special attention given to its unique characters, the following criteria should be adhered to when determining the suitability of an area for wilderness designation.

Management

An area should not be excluded from wilderness designation solely because established or proposed management practices require the use of tools, equipment or structures, if these practices are necessary for the health and safety of wilderness travelers, or the protection of the wilderness area. The manager should use the *minimum* tool, equipment or structure necessary to successfully, safely and economically accomplish the objective. When establishing the minimum tool

and equipment necessary for a management need within wilderness areas economic factors should be considered the least important of the three criteria. The chosen tool or equipment should be the one that least degrades wilderness values temporarily or permanently.

For the purpose of this paragraph, accepted tools, equipment, structures and practices may include but are not limited to: fire towers, patrol cabins, pit toilets, temporary roads, spraying equipment, hand tools, fire-fighting equipment caches, fencing and controlled burning. In special or emergency cases involving the health and safety of wilderness users or the protection of wilderness values aircraft, motorboats and motorized vehicles may be used. Enclaves, buffer zones, etc., should not be established if the desired management practices are permitted under these guidelines.

Visitor Use Structures and Facilities

An area that contains man-made facilities for visitor use can be designated as wilderness if these facilities are the minimum necessary for the health and safety of the wilderness traveler or the protection of wilderness resources. An example of a wilderness campsite that could be included is one having a pit toilet and fire rings made of natural materials and tent sites. A hand-operated water pump may be allowed. This kind of campsite would not be considered a permanent installation and could be removed or relocated as management needs dictate. Facilities that exceed the "minimum necessary" criteria will be removed and the area restored to its natural state. (See section on Exceptions.)

Areas containing campsites that require, for the protection of the adjacent wilderness values, facilities more elaborate than those allowed in a wilderness campsite should be excluded from wilderness designation.

Prior Rights and Privileges and Limited Commercial Services

Lands need not be excluded from wilderness designation solely because of prior rights or privileges such as grazing and stock driveways or certain limited commercial services that are proper for realizing the recreational or other wilderness purposes of the areas.

Road and Utilities — Structures and Installations

Areas that otherwise qualify for wilderness will not be excluded because they contain unimproved roads, created by vehicles repeatedly

traveling over the same course, structures, installations or utility lines, which can and would be removed upon designation as wilderness.

Research

Areas that otherwise qualify need not be excluded from wilderness designation because the area is being used as a site for research unless that use necessitates permanent structures or facilities in addition to those needed for management purposes.

Future Development

Those areas which presently qualify for wilderness designation but will be needed at some future date for specific purposes consistent with the purpose for which the National Park or National Wildlife Refuge was originally created, and fully described in an approved conceptual plan, should not be proposed for wilderness designation if they are not consistent with the above guidelines.

Exceptions

Certain areas being studied may contain structures such as small boat docks, water guzzlers and primitive shelters that ought to be retained but may not qualify as minimum structures necessary for the health and safety of wilderness users or the protection of the wilderness values of the area. When an area under study for wilderness designation would otherwise qualify as wilderness a specific provision may be included in the proposed legislation for this area, giving the wilderness manager the option of retaining and maintaining these structures. Necessary management practices such as controlled burning shall also be mentioned specifically in the proposed legislation.

Areas being considered for wilderness designation will not be excluded solely because they contain hydrologic devices that are necessary for the monitoring of water resources outside of the wilderness area. When these devices, either mechanical or electronic, are found to be necessary, a specific provision allowing their use will be included in the legislation proposing the wilderness area being considered. For the installation, servicing and monitoring of these devices the minimum tools and equipment necessary to safely and successfully accomplish the job will be used.

Areas being studied for wilderness designation will not be excluded solely because they contain lakes created by water development projects if these lakes are maintained at a relatively stable level and the shoreline has a natural appearance. Where this occurs and there is no other reason for excluding the area, a specific provision describing the water development project and its operation will be included in the proposed legislation along with the recommendation for including it in the wilderness area. Other minimal development of water resources may be suggested for inclusion in wilderness if specific reference is made to them in the proposed legislation. These provisions will allow present maintenance practices to continue.

Areas that contain underground utilities such as gas pipelines and transmission lines will not be excluded from wilderness designation solely for this reason. Where this occurs the areas may be included by making specific mention of them in the proposed legislation indicating that this use would continue and previously established maintenance practices would be allowed to continue.

When non-qualifying lands are surrounded by or adjacent to an area proposed for wilderness designation and such lands will within a determinable time qualify and be available Federal land, a special provision should be included in the legislative proposal giving the Secretary of the Interior the authority to designate such lands as wilderness at such time he determines it qualifies.

A handwritten signature in dark ink, appearing to read "Nathaniel P. Reed", with a long horizontal flourish extending to the right.

Nathaniel P. Reed

SOURCES CONSULTED

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As the nation's principal conservation agency, the Department of the Interior has basic responsibilities to protect and conserve our land and water, energy and minerals, fish and wildlife, and parks and recreation areas, and to ensure the wise use of all these resources. The department also has major responsibility for American Indian reservation communities and for people who live in island territories under U.S. administration.

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